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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,593,638 : DECISION ON REQUEST
Pohjola et al. : FOR
Issue Date: September 22, 2009: RECONSIDERATION OF
Application No. 10/717,601 : PATENT TERM ADJUSTMENT
Filed: November 21, 2003 : and
Atty Docket No. 088245-2354 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 19, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred three (1103) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-five (975) days.

The B delay is 498 days, not 499 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on November 22, 2006, and ended on April 2, 2008, *the day before* the RCE was filed, and is 498 (not 499) days. See 35 U.S.C. § 154(b)(1)(B)(i).

Further, a review of the record confirms that an additional period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10). A Notice of Allowance was mailed on October 9, 2007. Thereafter, on January 8, 2008, applicant filed an amendment under 1.312. The Office mailed a response to the 312 communication on February 26, 2008. Accordingly, pursuant to 1.704(c)(10), a period of reduction of 50 days is being entered for the period beginning on January 8, 2008 and ending on February 26, 2008.

Further, applicant filed a Request for Continued Examination (RCE) and IDS on April 3, 2008. Prior to filing the RCE, applicant paid the Issue Fee. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE and IDS after the mailing of the Notice of Allowance on October 9, 2007 constituted a further failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 77 days, counting the number of days in the period beginning on April 3, 2008 and ending on June 18, 2008, the date of mailing of a non-final Office action in response.

In view thereof, the revised patent term adjustment has been corrected to nine hundred seventy-five days ($604 + 498 - 50 - 77$).

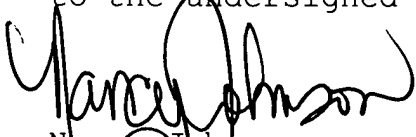
The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of

the above-identified patent is extended or adjusted by nine hundred seventy-five **(975)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219:

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,593,638 B2

DATED : September 22, 2009

DRAFT

INVENTOR(S) : Pohjola et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 604 days

Delete the phrase "by 604 days" and insert – by 975 days--